

REMARKS

The election/restriction requirement has been carefully reviewed. Restriction to one of the following inventions was required under 35 U.S.C. 121 between: group I, claims 1-8 and 19-26, drawn to a process of preparing a solid composite and a solid composite, classified in class 516, subclass 98; group II, claims 9-14, drawn to a process of preparing a solid composite, classified in class 516, subclass 98; and, group III, claims 15-18, drawn to an alcohol soluble nanocrystal-polymer complex colloid, classified in class 516, subclass 33.

The Office Action stated that the inventions are distinct, each from the other because of the following reasons: inventions I and II are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require that particulars of the subcombination as claimed because the nanocrystals of Group I do not require the hydrophobic ligands as claimed for those of Group II. The subcombination has separate utility such as a process of producing a solid composite as claimed. Inventions III and I and III and II are related as product and processes of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case the alcohol soluble colloid could be used to produce solid nanocrystal-polymer complex particles for use without the sol-gel matrix.

The Office Action concluded that because these inventions are distinct for the reason given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

In addition, the Office Action stated that should applicant elect to proceed with the claims of Group I, claims 5, 21 and 25 are generic to a plurality of disclosed patentably distinct species comprising the sol-gel precursor material, claims 6, 22 and

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26 are generic to a plurality of disclosed patentably distinct species comprising the nanocrystals, and claim 19 is generic to a plurality of disclosed patentably distinct species comprising the terminal group of the nanocrystals. Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for each, even though this requirement is traversed.

Applicants hereby elect Group I, claims 1-8 and 19-26 without traverse. Further, applicants elect the species of titania as the sol-gel precursor material, elect lead selenide (PbSe) as the colloidal nanocrystal, and elect alkoxysilane-terminated groups as the terminal group.

A favorable action is solicited.

Respectfully submitted,

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